

AMENDED IN SENATE JULY 8, 1999  
AMENDED IN ASSEMBLY JUNE 2, 1999  
AMENDED IN ASSEMBLY MAY 27, 1999  
AMENDED IN ASSEMBLY MAY 19, 1999  
AMENDED IN ASSEMBLY MAY 6, 1999  
AMENDED IN ASSEMBLY MAY 3, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

## ASSEMBLY BILL

**No. 858**

**Introduced by Assembly Member Kuehl**

February 24, 1999

---

---

An act to add Section 1670.7 to the Civil Code, *and to amend Section 1281 of the Code of Civil Procedure*, relating to contracts.

### LEGISLATIVE COUNSEL'S DIGEST

AB 858, as amended, Kuehl. Contracts: waivers.

Existing law generally regulates the formation of contracts.

This bill would prohibit an employer from requiring *or requesting* an employee to waive specified rights in order to enter into a contract for employment or continued employment, and would specify certain civil penalties for violations.

*Existing law provides that a written agreement to submit to arbitration a controversy thereafter arising is valid,*

*enforceable, and irrevocable save on grounds for revocation of contract.*

*This bill would exempt a predispute arbitration agreement between employer and employee from this provision unless entered into pursuant to a collective bargaining agreement.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares  
2 that, it is the policy of the State of California to ensure that  
3 employees have the full benefit of constitutional,  
4 statutory, or common law rights and protections and that  
5 they not be coercively deprived of those rights and  
6 protections.

7 (b) *It is the policy of this state to encourage voluntary*  
8 *submission of employee claims to appropriate alternative*  
9 *dispute resolution mechanisms after a dispute has arisen.*

10 (c) *These policies can best be implemented with a*  
11 *minimum of conflict and judicial oversight by requiring*  
12 *that agreements to arbitrate employment disputes be*  
13 *entered into after a dispute arises.*

14 SEC. 2. Section 1670.7 is added to the Civil Code, to  
15 read:

16 1670.7. (a) Notwithstanding any other provision of  
17 law, no employer may require *or request* an employee to  
18 agree to waive any of the following rights as a condition  
19 of employment or continued employment:

20 (1) The right to a jury trial.

21 (2) The right to the privileges established under  
22 Chapter 4 (commencing with Section 930) of Division 8  
23 of the Evidence Code.

24 (3) The right to any legal protection against  
25 discrimination, including, but not limited to, those rights  
26 provided under Section 2000e, and following, of Title 42  
27 of the United States Code, Chapter 6 (commencing with  
28 Section 12940) of Part 2.8 of Division 3 of Title 2 of the  
29 Government Code, and Section 51 of the Civil Code.

30 (4) The right of access to a judicial forum.



1 (b) Any waiver obtained in violation of this section is  
2 void and shall be deemed involuntary, beyond the  
3 reasonable expectations of the employee, and  
4 unconscionable.

5 (c) An employer who violates this section shall be  
6 subject to a civil penalty in the amount of five thousand  
7 dollars (\$5,000) per violation. The civil penalties provided  
8 for in this section are in addition to any other penalties or  
9 remedies provided by law.

10 (d) Nothing in this section shall be construed to  
11 prohibit an employer from entering into a collective  
12 bargaining agreement, between the employer and  
13 employees or between their respective representatives,  
14 providing for submission of employment-related claims  
15 to arbitration or to require submission of  
16 employment-related claims to arbitration in accordance  
17 with a collective bargaining agreement.

18 (e) *Nothing in this section is intended to affect the*  
19 *ability of parties to agree to alternative dispute resolution*  
20 *after a dispute has arisen.*

21 *SEC. 3. Section 1281 of the Code of Civil Procedure is*  
22 *amended to read:*

23 1281. ~~A~~—(a) *Except as provided in subdivision (b), a*  
24 *written agreement to submit to arbitration an existing*  
25 *controversy or a controversy thereafter arising is valid,*  
26 *enforceable, and irrevocable, save upon such grounds as*  
27 *exist for the revocation of any contract.*

28 (b) *Subdivision (a) does not apply to any predispute*  
29 *arbitration agreement between an employer and*  
30 *employee entered into in violation of Section 1670.7 of the*  
31 *Civil Code.*

